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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,785	03/08/2004	Leslie R. Fine	200401144-1	4138

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

EBERSMAN, BRUCE I

ART UNIT	PAPER NUMBER
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3691

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/797,785	Applicant(s) FINE ET AL.	
	Examiner BRUCE I. EBERSMAN	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11 and 13-20,22-3 is/are rejected.
- 7) ☒ Claim(s) 3,12 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-23 presented, applicant filled an amendment and response on 3/28/08, amending claims 3, 12, 21, 22, 23. After careful consideration of the applicant's remarks and amendments, the examiner maintains the grounds of rejection of claims 1-2,4-11,13-20,22-3. The examiner finds the applicant's amendments of claims 3,12,21 to contain allowable subject matter. Since the examiner has maintained the rejection claims 1-2,4-11,13-20,22-3, the grounds of rejection of claims 1-2,4-11,13-20,22-3 are a final rejection of the claims.

Allowable Subject Matter

2. Claims 3,12, 21 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

CLAIM REJECTIONS- 35 USC 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1,2, 4-7,9,10-11,13-16,18-20,22-23 rejected under 35 USC 103(a) as being unpatentable over US Patent 6236900 to Geiger in view of US Patent 6493682 to Horrigan

As per claims 1,10,19,22

Geiger discloses determining at least one participant characteristic of a participant; (Col. 2, line 5-10), Geiger discloses a query process and probabilities. (Col. 3, line 19-23)

aggregating a result of the query process with weighting for the participant characteristic. (Col. 4., line 11-17 and 45-63)

Geiger does not specifically disclose defining probability bins and that each probability bin corresponding to a probability is associated with an expected outcome (probabilities are disclosed). Geiger does also not specifically associate performing a query process with probability bins.

Horrigan teaches defining probability bins, (col. 22 line 60-5), Further, Horrigan teaches that each of the probability bins corresponding to a probability associated with an expected outcome; (Col 60-5, Col. 22)

and probability bins in conjunction with assets (Col 5, line 50).

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the forecasting methods and disclosures which can work for assets or gaming with the probability bin and predictive teachings of Horrigan for the

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purpose of predicting asset values using probability bins to differentiate values which are continuous.

As per claims 4,13, examiner noted in section #3 that claims 4,13 are vague in their reference to mean estimates. Geiger does not specifically disclose the use of such mean estimates as the center probability bin. Horrigan teaches probability bins (Col 20, line 5-40 and table 5 for the purpose of estimating continuous data sets. It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the predictive event disclosures of Geiger with the probability bin teachings of Horrigan to produce a more accurate prediction.

As per claims 5,14, Geiger does not specifically disclose defining probability bins comprising sub-dividing historical data into probability bins. Horrigan, Col. 25, table 5 and 32 e3a teaches probability bins which sub divide historical data for the purpose of analyzing historical data using discrete categories. It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the forecasting system disclosed in Geiger with the probability bins teachings of Horrigan for the purpose of analyzing historical data using discrete probability categorization.

As per claims 6,15, Geiger discloses performing a query process comprising wagering by the participant on expected outcomes. (Col. 2, line 20)

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As per claims 7, 16, Geiger discloses wagering via a web based software application.

(Col 2, line 30)

As per claims 9, 18, Geiger discloses a query process comprising a matching market, including stock trading and options trading type of forums (Col 3, line 10)

7. Claims 8,17 rejected under 35 USC 103(a) as being unpatentable over US Patent 6236900 to Geiger in view of US Patent 6493682 to Horrigan and in further view of US Patent 6606615 to Jennings.

As per claims 8,17, Geiger discloses participant prediction (Col, 2, line 20), Geiger and Horrigan do not explicitly disclose exponential factoring for the participant characteristic and query process. Jennings teaches forecasting process where the results of the query process are aggregated by utilizing Bayes Formula for each probability of the potential outcome assigned by a participant modified by an exponential factor for the purpose of factoring the probability adjustments associated with each participants characteristics. (Col. 53, Lines 30-40). It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the participant characteristic and query process disclosure of Geiger with the participant prediction and exponential factoring teachings of Jennings for the purpose of accounting for participant characteristics in a query process.

Response to Arguments

With respect to the objection to claim 7, the examiner accepts applicant's correction re: dependency of claims 7 and thus the objection is withdrawn.

With respect to the 35 USC 112(2) rejection, Applicant has amended claims 3,12,21 thereby obviating the examiner's concerns re: indefiniteness of said claims. In regards to claims 4, 13, the examiner finds the applicant's argument to be persuasive and thus the claim objections re: 35USC 112 are withdrawn.

With respect to the rejections based on 35 USC 103, Applicant's arguments filed 2/28/08 have been fully considered but they are not persuasive. Applicant as highlighted some typographical inconsistencies and argues that the references when combined as applied to the independent claims do not teach the claimed invention.

The applicant has further indicated that the rejection does not fully address the differences between the independent claims. The examiner would like to point out that the independent claims contain related subject matter except that they contain various computer system and hardware related interfaces. Computers are used extensively in nearly all business methods and related applications including the cited references, and thus, the use of a computer is important to meeting the standards of 35 USC101.

In regards to the applicant's substantive arguments regarding rejections under 35USC 103, the examiner has carefully reviewed the references and will explain why the references as cited are applicable and anticipate the applicant's claims of 1,10,19,22 which were the focus of the referenced amendment.

Geiger uses reciprocal probabilities as bins and thus when combined with Horrigan's explicit use of traditional probability bins, the combined references as viewed under 35USC103 anticipate the applicant's independent claims as being obvious to one of ordinary skill in the art.

For further clarity, see the following citations for the Geiger reference which better clarify the examiner's argument.

Determining at least one participant characteristic of a participant; (confidence of Player, Col 7-8 examples, see col. 8 at line 20, one participant characteristic is confidence expressed by the percent of the player's funds being bet, ie. 1/10 of the funds is 1, 2/10 is 2 etc. used as a weight) defining reciprocal probabilities bins, each of the reciprocal probabilities corresponding to a probability associated with an expected outcome; (col. 7, lines 55-65, ie. probability factor assigned to each time interval, proportional to the timing of the bet, in this case the probability is reciprocal)

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performing a query process with the probability bins as assets; (query process, performed, col. 7, lines 25-35, and 50-55)

probability bins are used to delineate outcomes, see col. 7, lines 55-65 where probability of the candidate winning can be bet on with multiplies for the timing of each bet.)

and aggregating a result of the query process with weighting for the participant characteristic. (See examples Col. 7, lines 25-30)

Geiger uses reciprocal probabilities and further includes the ability to handle multifaceted type of events such as where the timing of the bid can be accounted for. Geiger does not explicitly use a probability bin which is based on non-reciprocal probability.

Horrigan teaches probability bins with percentages and non-reciprocal probabilities. (col. 20, lines 30-45)

In summary, the examiner believes that Geiger anticipates the independent claims as written, though Geiger uses reciprocal probability which is why the Horrigan reference was introduced. In combination, they render the independent claims obvious to one of ordinary skill in the art under 35 USC 103a.

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In response to the applicants amendment's of claims 3, 12, 21, the examiner is indicating allowable subject matter of the subject claims if combined with the claims from which they depend.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **BRUCE I. EBERSMAN** whose telephone number is (571)270-3442. The examiner can normally be reached on 630am-5pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

Bruce I Ebersman
Examiner
Art Unit 3691